IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
SPECIAL CIVIL APPLICATION No 8691 of 2003
For Approval and Signature:

Hon'ble MR.JUSTICE P.B.MAJMUDAR

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1. Whether Reporters of Local Papers may be allowed to see the judgment? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

PRANTIJ MUNICIPAL BUREAU

Versus

MAHESHBHAI JIVRAMBHAI CHAUDHARY

Appearance: MR MUKESH R SHAH for the Petitioner.
Mr.Vaishnav, with Mr.Gadia, for the Respondent.

CORAM : MR.JUSTICE P.B.MAJMUDAR

Date of decision: 22/07/2003

ORAL JUDGEMENT

The learned Advocate for the petitioner seeks permission to amend the cause title, by describing the name of the respondent as "Maheshbhai Jivrambhai Chauhan", instead of "Maheshbhai Jivrambhai Chaudhary". Permission to amend the cause title is accordingly granted. Office may carry out the amendment in the cause title.

Rule. Mr.Vaishnav for Mr.Gadia waives service of rule on behalf of the respondent.

With the consent of the parties, the petition is taken up for final hearing today.

By filing this petition, the petitioner-Municipality has challenged the Award dated 16.10.2002, passed by the Presiding Officer, Labour Court, Himatnagar, in Reference (LCH) No.911 of 1996. By the said Award, the Labour Court, Himatnagar, has partly allowed the Reference of the respondent-workman and ordered reinstatement in his favour with other consequential benefits. The Labour Court has found that the Municipality has not led any evidence in the Reference. In paragraph 6, the Labour Court has mentioned that the petitioner had not remained present before the Labour Court and even cross-examination of the concerned workman was not taken. Under the circumstances, since the say of the workman remained uncontroverted, the same was accepted by the Labour Court and the aforesaid order of reinstatement was passed. Since the Award in question is an ex parte Award, on behalf of the respondent-workman, it is fairly stated that the respondent has no objection if the petitioner is given a last opportunity to lead evidence before the Labour Court. It is, however, submitted that since the respondent is out of service, adequate costs may be awarded to him.

Considering the aforesaid aspect of the matter, the order of the Labour Court is required to be quashed and set aside and it is accordingly quashed and set aside. Rule is made absolute accordingly. The matter is sent back to the Labour Court for hearing the reference afresh. Mr.Shah for the petitioner has assured the Court that the petitioner will cooperate for early disposal of the said reference.

In the facts and circumstances of the case, the petitioner is directed to deposit Rs.10,000/- by way of costs before the Labour Court. Such amount be deposited on or before 15th September, 2003. Mr.Shah for the petitioner has assured the Court that the said amount will be deposited by the petitioner-Municipality. The respondent-workman will be entitled to withdraw the said amount towards the costs of this litigation and accordingly, the respondent is permitted to withdraw the said amount unconditionally.

It is clarified that in case the petitioner still fails to cooperate for the disposal of the Reference, the Labour Court is free to pass appropriate order again. The petitioner is also given liberty to lead evidence and it is also given liberty to cross-examine the concerned workman, who was not subjected to cross-examination at the earlier point of time.

In the facts and circumstances of the case, the main Reference may be disposed of as early as possible, and latest by 31st January, 2004.

(P.B. Majmudar, J.)

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(apj)